



Ex Parte Milligan Comes to Life

(a scripted trial based on the Indiana Civil War case of *Ex Parte Milligan*)

Part One: Military Tribunal

Student holds up APPLAUSE signs

Scene card person puts up card: “1864” and “Indianapolis, Indiana”

Narrator: As we join our story already in progress, note that it is the Fall of 1864. The Civil War has been raging for 4 long years. While thousands of Americans have lost their lives, the only real military action seen in Indiana is way down south on the Indiana/Kentucky border. There are lots of people living in Indiana who are not happy with President Lincoln’s war policies or with the help he’s getting from Indiana’s Governor Morton.

Lambdin P. Milligan is one of those people who disagree with President Lincoln and Governor Morton about the War. He lives near Fort Wayne in the small town of Huntington. On October 6, 1864, around midnight, soldiers showed up at his house to arrest him. According to his wife, Milligan was sick in bed and couldn’t travel.

The soldiers sent for a doctor. The doctor said Milligan was well enough to travel. Milligan was immediately arrested and put on board a waiting train and sent to Indianapolis for trial.

(Milligan and four of the other defendants enter; the four defendants sit in the front row while Milligan starts talking.)

Narrator: Oh look, here comes Milligan. Let’s listen in.

Milligan: I’m a lawyer and a farmer and I live in Huntington near Ft. Wayne, Indiana. I thought the Civil War was outrageous, so while it was going on, I joined some protest groups to convince people that the war was unfair. I even went to Fort Wayne to join in a protest against the draft ordered by President Lincoln. Do you know what a draft is?

Draft Definition Student:

Draft—To make or force someone to go into the military.

Milligan: I told a crowd that citizens should be able to refuse to enter the army because we live in a free country. I told them to resist if they wanted to. A few days later a group of soldiers showed up at my house in the middle of the night. Do you know what they did to me?

They dragged me from my sickbed and put me on a train to Indianapolis to be put on trial in front of a military tribunal. Do you know what a military tribunal is?

Military Tribunal Definition Student:

Military Tribunal—A court where military officers serve as judge and jury. Sometimes they are held in secret.

Narrator: Mr. Milligan and other members of a group he belonged to, the “Sons of Liberty,” are on trial not only for Milligan’s speech about the draft and opposing the war, but also because they were accused of plotting to set free southern prisoners of war being held near Indianapolis and because they were planning to assassinate Indiana’s Governor, Oliver Morton.

Milligan: I’m not the only one on trial here. *(Point to the four co-defendants who are seated in the front row.)* Several of my colleagues are also on trial. The government is saying that we were stockpiling weapons, planning on assassinating Governor Morton, and setting free confederate prisoners of war. But why am I on trial before the military? I’m not even in the Army!

(The five soldiers and Hovey #1, the military tribunal, go and stand behind the lower bench.)

Narrator: *(talk while the soldiers are coming up to the bench)* It looks like it’s time for the military tribunal to begin.

Hovey #1: I am Alvin P. Hovey. Do you know who I am?

Alvin Hovey Biography Student:

- Alvin Hovey - During his long career serving both Indiana and the United States, Alvin Peterson Hovey held many different offices.
- He served as a judge on the Indiana Supreme Court. He was one of Indiana’s representatives to the U.S. Congress in Washington, D.C. and was Governor of Indiana.
- At the time of Milligan’s trial, he was the military commander of the District of Indiana.

Hovey #1: I am a Major-General in the Union Army, and I will act as the foreman of this jury. Do you know who the Union soldiers were fighting for?

Union Soldiers Definition Student:

Union Soldiers—Soldiers who fought for the Northern States and President Lincoln during the Civil War.

Hovey #1: These other soldiers and I will hear the charges against Mr. Milligan and the other defendants. We will listen to their defense and decide what should happen to them if we find them guilty.

(Long pause, look down at all of the soldiers.)

Gentleman, are we ready to begin?

Soldiers: *(all nod)*

Scene card person puts up card: “Military Tribunal Week 1”

Soldier 1: You are charged with treason.

Milligan: (*loud, shocked voice*) TREASON! TREASON?

Treason Definition Student:

Treason—Betraying or trying to cause harm to the government of the United States. This crime is punishable by death.

Narrator: Remember, the country is at war and Milligan is accused of plotting to assassinate Governor Morton and to arm Southern prisoners of war.

Soldier 2: How do you plead Mr. Milligan, guilty or not guilty?

Milligan: NOT guilty! I live in a free country!

Soldier 3: Your country is free because the Union Army fights for it!

Milligan: The Union Army fights for me so I can be free to speak my mind in public. This war is wrong.

Removes scene cards for “Military Tribunal Week 1”
Scene card person puts up card: “Military Tribunal Week 2”

Soldier 4: So you are against your President and against your Government? You planned to free Southern prisoners being held in Indianapolis...

Milligan: No, I’m not opposed to my government. But I am opposed to this “unnecessary, unjust, and infamous” war and think I should be allowed to say so in as many speeches as I want and anywhere I want!

Soldier 5: What did you tell people at that Fort Wayne meeting?

Milligan: I told them that I thought they shouldn’t have to join the army if they didn’t want to! I can’t help it if other people were violent and defiant in their protesting against the war.

Removes scene cards for “Military Tribunal Week 2”
Scene card person puts up card: “Military Tribunal Week 3”

Hovey #1: (*turns to fellow soldiers/jurors*) Well, we’ve been here a long time now. This trial has been going on for three long weeks. Do any of you have any more questions for Mr. Milligan or the other defendants?

All Soldiers: No.

Hovey #1: Will the defendants please rise? (*Milligan and other 4 defendants stand*) Gentleman, how do you find them?

Soldier 1: Guilty.

Soldier 2: Guilty.

Soldier 3: Guilty.

Soldier 4: Guilty.

Soldier 5: Guilty.

Hovey #1: Mr. Milligan, we find you and your associates guilty of treason. You and the other 4 leaders of this organization are sentenced to death by hanging.

(5 Soldiers and Hovey #1 return to their seats)

Other 4 defendants: *(stand up from seats and go up to Milligan and look worried)* What are we going to do? What are we going to do?

Milligan: This is ridiculous. I'm going to appeal to the U.S. Supreme Court. *(all walk off stage and four other defendants return to their seats)*

Student holds up APPLAUSE sign.

Remove scene cards for "1864," "Indianapolis, Indiana," and "Military Tribunal Week 3"

Narrator: It is now late in 1864. President Lincoln was re-elected in November, and everyone is optimistic that the war will soon be ending.

(President Lincoln and President Lincoln Biography Student stand up together in front to say line and then return to seat.)

President Lincoln Biography Student:

- President Lincoln—Abraham Lincoln was elected the 16th President of the United States in 1860, and re-elected in 1864. He was the Commander-In-Chief of Union during the Civil War.
- He signed the Emancipation Proclamation—changing the war from one about Union to one about ending slavery, and he wrote the Gettysburg Address.
- Lincoln was assassinated by John Wilkes Booth 5 days after the Civil War ended.

President Lincoln: I think I'm going to put Mr. Milligan's execution on hold until after we see what the U.S. Supreme Court has to say about this.

Milligan: That President Lincoln seems like a good man. He said he might even throw out my death sentence.

Student holds up APPLAUSE sign.

Narrator: While Milligan gathers his defense team and heads off from Indianapolis to Washington, D.C. to appeal his case, we will have a short discussion with _____.

Part Two: Question and Answer Session

Moderator engages audience in a question and answer session

Suggested topics:

1. When was the Civil War?
2. Who were the 2 sides in the War?
3. Do you think Milligan should have been tried for opposing the war? What about if he planned to use violent resistance?
4. Do you think it is okay for the military to try someone who isn't in the army?
5. Do you think this could happen today?
6. Is the US currently at war?
7. What happens to people who protest against the war in Iraq and Afghanistan?
8. What happens to Americans who fight for the other side?

When questions seem to be fading, or when Moderator thinks enough time has been spent on this section, Milligan re-enters the room.

Student holds up APPLAUSE sign as guest speaker leaves

Narrator: I have some sad news to share with you. While we were away, President Lincoln was assassinated by that villain John Wilkes Booth. Vice-President Andrew Johnson has already been sworn in as the new President.

(President Johnson stands up in front to say the line and then sits back down.)

President Johnson: Abe Lincoln was getting too soft. No way am I going to put off this sentence. Milligan was sentenced to death, and it's time to carry out that sentence.

Part Three: U.S. Supreme Court Case

Scene card person puts up card: "1866," US Supreme Court picture, "Washington DC"

Narrator: Though President Johnson seems intent that Milligan's execution go forward, no action can be taken for a while because the case is being appealed.

It's been almost 2 years since Mr. Milligan was found guilty of treason by the military tribunal in Indianapolis. He has made his way to Washington D.C., and has finally won a hearing before the Supreme Court of the United States. Oh look, there's Milligan now.

Milligan: Well, I thought the treatment I received from the military court was completely unfair, so I appealed to the U.S. Supreme Court.

Narrator: Do you know what an appeal is?

Appeal Definition Student:

Appeal—To have a higher court review the ruling of a lower court. You only do this if you are not happy with the ruling of the lower court.

(The US Supreme Court Justices stand behind bench ready to walk on. Bailiff is standing at lower bench with gavel. Black goes and stands next to Milligan at Attorney table on right. Speed goes to Attorney table on left.)

Narrator: Do you know what the U.S. Supreme Court is?

U.S. Supreme Court Definition Student:

- The U.S. Supreme Court is the highest court in the United States.
- Of the 9 justices who were serving on the Court at the time of Milligan's hearing, 5 of them had been appointed by President Lincoln, including Chief Justice Salmon Chase.

Bailiff: (*pounds gavel*) All rise. (*everyone stands up*) The Honorable Chief Justice and the Associate Justices of the Supreme Court of the United States. Oyez! Oyez! Oyez! All persons having business before the Supreme Court of the United States are admonished to draw near and give their attention, for the Court is now sitting. God save the United States and this Honorable Court! (*Justices walk to chairs and sit down*). You may be seated.

Chief Justice Salmon Chase: We have before us the case of *Ex Parte Milligan*. Mr. Milligan has been convicted of treason and sentenced to death. Today, he appeals his conviction. Mr. Milligan, do you have anything to say?

Milligan: Thank you, Mr. Chief Justice. Your Honors, 2 years ago I was dragged from my sick bed in the middle of the night, put on a train to Indianapolis, and tried before a military tribunal. EVEN THOUGH I WASN'T IN THE ARMY! It all seems so unfair, and I have been worrying myself sick. I am completely weakened from all the time I've been unlawfully forced to spend in a jail cell. I was sentenced to death, and President Lincoln delayed my sentence, but now President Johnson has ordered my execution.

Chief Justice Salmon Chase: Mr. Milligan, this is a courtroom not a soapbox, did you bring a lawyer with you today?

Jeremiah Black: (*stands up*) Mr. Chief Justice, my name is Jeremiah Black and Milligan has hired me to represent him in this case.

Chief Justice Salmon Chase: Thank you Mr. Black, we will hear from you in a minute. In the meantime, we have some questions to ask your client.

Justice Samuel Miller: Mr. Milligan, let's just get to the point. When all this started, where were you giving your anti-war speeches?

Milligan: In and around Fort Wayne, Indiana, your honor.

Justice David Davis: Was there fighting going on in this area?

Milligan: No sir, this was not a war zone, but a civilian area. It is about 100 miles north of Indianapolis. The only military activity in Indiana during the war was about 200 miles south, around the border of Indiana and Kentucky.

Justice James Wayne: Who exactly made up the members of this tribunal, Mr. Milligan?

Jeremiah Black: If it pleases the Court, I'd like to answer this question. Officers in the U.S. Army made up the tribunal. They acted as judge and jury. Where in the Constitution does it say Army officials can arrest and try private citizens!

Justice James Wayne: Were the regular courts open and conducting business during this time?

Jeremiah Black: Yes they were, your Honor.

Chief Justice Salmon Chase: Attorney General Speed, you are representing the U.S. government in this matter. Do you have anything to add?

Attorney General Speed: Yes, Mr. Justice. It is the government's position that the Constitution applies only in peacetime not in wartime. We argue, therefore, that the Constitutional requirements regarding trials do not apply to Mr. Milligan's case.

Justice David Davis: (*looking shocked and surprised*) Is that the best argument you have to offer?

Attorney General Speed: Your honor, it is the opinion of the Attorney General that the military tribunal was a legal process.

Justice Samuel Miller: Mr. Speed, this is one of the weakest arguments the Court has heard this term!

Chief Justice Salmon Chase: Thank you, gentlemen. We will let you know our decision shortly.

(*Justices confer, huddle and whisper together*)

Narrator: It is now December 1866. The Civil War has been over for almost a year and a half. Will the Court uphold the military tribunal's sentence of death or impose a new sentence? Perhaps even set Mr. Milligan free? I think the justices are ready to announce their decision.

Justice David Davis: Mr. Milligan, the court has voted 9-0 to overturn the ruling of the military court, because Fort Wayne, Indiana was clearly NOT A WAR ZONE. And, the civilian courts were working. Therefore, a military court had NO jurisdiction.

Justice James Wayne: The Chief Justice, Mr. Justice Swayne, Mr. Justice Miller (*nod at his colleagues*) and I agree with Mr. Justice Davis and our 4 other colleagues that the PARTICULAR military tribunal that tried Mr. Milligan was unconstitutional.

However, we believe that the Constitution does give Congress the power to authorize military trials. So, Mr. Milligan's tribunal was unconstitutional, but tribunals in general are not.

Justice Samuel Miller: You are a free man, Mr. Milligan.

Bailiff: All rise. (*pounds gavel*) This court is adjourned. You may be seated.

(*Judges rise and leave the bench. Black and Speed head back to seats in audience.*)

Student holds up APPLAUSE sign

Remove scene cards for “1866,” US Supreme Court picture, and “Washington DC”

Part Four: Question and Answer Session

Moderator engages audience in a discussion of the Supreme Court decision

Suggested topics:

1. Why was Milligan’s tribunal ruled unconstitutional?
2. Are all military tribunals unconstitutional?

When questions seem to be fading, or when Moderator thinks enough time has been spent on this section, Milligan re-enters the room.

Student holds up APPLAUSE sign as guest speaker leaves

Part Five: Civil Trial Back in Indianapolis

Scene card person puts up cards: “1871,” “Indianapolis, Indiana,” First Indianapolis State Capitol Building picture

Narrator: It has now been seven long years since Milligan was initially arrested and taken from his home in Huntington to Indianapolis to stand trial before a military tribunal. The Civil War has been over for six years, and in the most recent Presidential election President Grant replaced President Johnson.

It has been five years since the U.S. Supreme Court overturned Mr. Milligan’s conviction. But he is still not happy. Milligan spent several years in prison and many more years fighting to clear his name. He decided that someone should pay for all of his trouble.

Back in Indianapolis Milligan decides to go to a civilian court and to try to get an award of some money to compensate him for his years of pain and suffering. Let’s see what happens in this final court appearance.

Milligan: Ha! Finally someone has been reasonable. Those Justices in Washington D.C. knew an innocent man when they saw one! But I’ve been angry, sad and scared for so long...My health is terrible. I am a sickly man, because of those Union soldiers! I’m going to sue everyone involved in that original trial. And I’m going to hire the best lawyer in town: Thomas Hendricks, have you ever heard of him?

Thomas Hendricks Biography Student:

- Thomas Hendricks—In 1871, Thomas Hendricks was considered to be one of the best lawyers in Indianapolis. He was Milligan’s attorney in the final trial held in Indianapolis.
- In 1872, he became governor of Indiana and in 1884, vice-president of the United States.

Narrator: Milligan brings charges against Alvin P. Hovey, the military commander and head of the tribunal; Oliver P. Morton, Governor of Indiana during the war; and General Ben Spooner, another high ranking Union officer.

Milligan: Governor Morton, General Hovey, and General Ben Spooner better just watch out. With a lawyer like Thomas Hendricks, who could possibly defeat me?

(Oliver Morton, Alvin Hovey #2 and Benjamin Spooner gather in the front of the room.)

Morton: This is ridiculous. *(turns to audience)* Do you know who I am?

Oliver Morton Biography Student:

- Oliver Perry Morton was governor of Indiana during Milligan's Military Trial.
- He was the first Indiana-born man to hold the office of governor.

Morton: I was the Governor of Indiana during the war, how can he sue me? *(Turn to Hovey and Spooner)*

Spooner: Well, *(turn and gesture to Hovey)* Hovey and I were both Generals and he's suing us, so why shouldn't he sue you too? He has no respect. I even lost my arm in that War he protested against. I was with General Sherman, you know, on the way to Atlanta when I got hurt.

Hovey #2: I guess serving my country wasn't enough. The war is over and we still have to put up with people who won't let it go.

Morton: Who should we hire to defend us?

Hovey #2: We'd better get a good lawyer. I heard Milligan hired Thomas Hendricks and his law partners, Oscar Hord and Abram Hendricks!

(Bell Ringer rings bell.)

Telegram Student: *(stands)* Urgent telegram from President Grant to Governor Morton and Generals Spooner and Hovey. The President suggests you hire Benjamin Harrison to defend you in the Milligan case.

Morton: Well, what do you think? Should we ask Benjamin Harrison if he'll do it?

Narrator: Do you know who Benjamin Harrison is?

Benjamin Harrison Biography Student:

- Benjamin Harrison lived in Indianapolis and was considered a brilliant lawyer. When Morton, Spooner, and Hovey were sued by Milligan, President Grant suggested they hire Benjamin Harrison to represent them.
- In 1888, Harrison was elected president of the United States.

Morton: Harrison is perfect and he has two partners, Albert Porter and Cyrus Hines who can help out as well.

Student holds up APPLAUSE sign

(Morton, Spooner, and Hovey #2 return to seats. Six jurors stand behind the lower bench. T. Hendricks, A. Hendricks, and Hord head to Attorney table at right with Milligan. Harrison, Porter, and Hines head to Attorney table at left.)

Narrator: I think it's time for the trial to begin. Let's see what Thomas Hendricks has to say on Milligan's behalf.

Thomas Hendricks: Ladies and gentlemen of the jury, don't let yourselves be fooled. Mr. Milligan (*gesture at Milligan*) was denied the protection of the Constitution when he was tried in a military tribunal and sentenced to death. The men on trial today put an innocent civilian in front of a military tribunal in an area outside a war zone.

Juror 4: Why is a military tribunal different from a normal court?

Thomas Hendricks: Because military officers serve as judge and jury. The military was trying people like Milligan who weren't in the military.

Juror 6: So when Milligan appealed to the U.S. Supreme Court, they said it was illegal for Mr. Milligan to be tried in front of a military tribunal because:

1. Indiana was not a war zone, and
2. He was not in the military.

Thomas Hendricks: Yes. There can be no trials of civilians by soldiers outside of war zones. You are here to uphold the law, and the U.S. Supreme Court says that the war-time trial of Mr. Milligan was unlawful. General Hovey and the other members of the tribunal (*points to them*) made a serious error in judgment. They threatened him, took him away from his family, and sentenced him to death.

Juror 5: Mr. Milligan was sick at the time the soldier came for him? What was wrong with him?

Thomas Hendricks: Yes, he was sick in bed with some kind of skin infection. His wife felt he was too sick to travel.

Juror 1: I understand the soldiers sent for a doctor before they took him to Indianapolis. What did the doctor say?

Thomas Hendricks: The doctor did say that Mr. Milligan was well enough to travel, but still, imagine that a mob of soldiers came to your door and asked you if this man was well enough to travel. What would you say?

Juror 2: Just what did Mr. Milligan do or say about the war that got him in such big trouble?

Thomas Hendricks: He spoke to crowds criticizing President Lincoln's war policies and told people they should be able to refuse to enter the army.

Is this not a free country? What choice do you have but to award Mr. Milligan something for his pain and suffering...not only HIS pain and suffering, but his FAMILY'S suffering as well? (*sits down*)

Abram Hendricks: (*stands*) If I might be permitted to provide additional information regarding Indiana and attitudes towards the Civil War following up on the points made by my partner.

Mr. Milligan was not alone in his anti-war feeling. Many Hoosiers had their roots in Kentucky, Maryland, Virginia, and North Carolina. These people grew up with the institution of slavery and, like Mr. Milligan, they were not thrilled with "President Lincoln's War."

Juror 3: And Mr. Milligan did a lot more than talk about the war, didn't he?

Abram Hendricks: Well... (*trails off, uncomfortable*)

Juror 1: He actually planned to assassinate Governor Morton and to free Southern prisoners, didn't he?

(*Hord stands up and Abram Hendricks sits down.*)

Oscar Hord: If I might add a few points for the jury to consider. I encourage the jurors to try and broaden their minds and think beyond the specific details of Mr. Milligan's case. What if Milligan is not the last civilian to be tried before a military tribunal?

This case has potentially long-reaching implications. It is up to this court to show the courts how to protect citizens like Mr. Milligan – a patriot who just happens to disagree with the decisions of the government (*sits down*).

Student holds up APPLAUSE sign

Narrator: Mr. Milligan's lawyers sure made some good points and the jury had some great questions. Let's see how Hovey, Spooner, and Morton's lawyers do.

(*Harrison stands up*)

Harrison: My fellow patriots, what we have here is a scoundrel (point to Milligan) trying to cover himself with a shield of law. What my clients did, trying Mr. Milligan in a military court, has been determined by the U.S. Supreme Court to be unconstitutional. However, you should know that Mr. Milligan is not the innocent bystander his lawyers are trying to make you believe. He was high-up in the chain of command in the "Sons of Liberty."

Juror 3: Who were the “Sons of Liberty”?

Harrison: The “Sons of Liberty” were a secret society. This group was plotting to set free southern prisoners and planning to assassinate Indiana’s Governor. Milligan was found guilty of treason because of the plans of the “Sons of Liberty” and his speeches against the war.

Juror 5: What does this have to do with your clients?

Harrison: The men on trial here today, Governor Morton, General Hovey and General Spooner, were sworn protectors of our city. General Spooner (*Spooner stands up*), for example, lost his arm for his country, and almost lost his life.

So, while others like them were fighting for the Union, Mr. Milligan was going to supply southern prisoners of war with guns. Right here in Indianapolis, Mr. Milligan and his friends were going to try and kill our governor.

Juror 4: How did General Spooner lose his arm?

Harrison: He lost his arm at the Battle of Kennesaw Mountain in Georgia.

I agree that it was a mistake to try Milligan in front of a military tribunal. But the freedom that these men fought for is sacred. Don’t let it be ruined by this traitor (*point to Milligan*). Thank you. (*sits down*)

Narrator: Wow, Mr. Harrison is a powerful lawyer. And, the defense isn’t done yet. His law partners still have some things to add.

Albert Porter: (*stands*) Ladies and Gentleman as my colleague Mr. Harrison (*wave towards Harrison*) has pointed out, there is little doubt that Mr. Milligan opposed the late Civil War. In fact, Mr. Milligan’s attorney just made a point of telling you that Milligan was not alone in holding a pro-South point of view.

While Mr. Hendricks and his partners reminded you of the Court’s opinion in *Ex Parte Milligan*, they failed to point out that three of the nine justices joined in an opinion offering different reasoning.

Juror 6: But didn’t all nine Justices agree that it was unconstitutional to try Mr. Milligan before the military tribunal?

(*Porter sits down and Hines stands up.*)

Cyrus Hines: Yes, the Court voted 9-0 to overturn Mr. Milligan’s conviction. All nine justices agreed that Mr. Milligan’s military tribunal was unconstitutional.

The differences focused on the fact that Congress did not use its constitutional authority to create the tribunal that found Mr. Milligan guilty of treason. The military set up the tribunal on its own.

Juror 2: If Milligan hadn't gotten the U.S. Supreme Court to overturn his conviction, what exactly did these justices think he'd done wrong?

Cyrus Hines: Notice that none of these arguments discuss what Mr. Milligan actually did. There is little doubt that Milligan and his friends were involved in a conspiracy.

They were responsible for stealing guns that they were going to give southern prisoners who could use them to possibly shoot Governor Morton (*point to Morton*).

Are we going to allow him to get away with this because of a technicality? (*sits down*).

Narrator: I think that's it for the lawyers. Let's see what the jury has to say.

(*Jurors pretend to confer—huddle together*)

Juror 1: We find in favor of Mr. Milligan

Juror 2: We award him \$5 in damages (*Hold up oversized money*) for all of the pain and suffering and personal loss that he claims to have suffered over the last 8 years.

Juror 3: The \$5 recognizes the U.S. Supreme Court's ruling that the military tribunal was not the right place to bring charges against Milligan. But, at the same time, it shows our feeling that he certainly acted in a criminal way.

Student holds up APPLAUSE sign

Remove scene cards for "1871," "Indianapolis, Indiana," and First Indianapolis State Capitol Building picture

(*Jury members head back to seats. T. Hendricks, A. Hendricks, and Hord head back to seats. Harrison, Porter, and Hines head back to seats.*)